1976年海事赔偿责任限制公约

本公约于１９７６年１１月１日至１１月１９日在伦敦召开的原政府间海事协商外交会议上通过，１９８６年１２月１日生效。参加本公约的国家有：巴哈马、比利时、贝宁、丹麦、埃及、芬兰、法国、德国、日本、利比利亚、瑞典、挪威、波兰、瑞士、英国、也门、澳大利亚等。

英国政府在批准书中，根据本公约第１８条第１款作出保留，排除第２条第１款第(d)项的适用，并指出：将国际货款基金组织使用的定值方法作为英国根据本公约第８条第１项使用的计算方式，并且，根据本公约第１５条第２款第(b)项，将３００吨以下船舶对人身伤亡的索赔和对任何其它索赔的责任限额分别确定为１６６ ６６７计算单位和８３ ３３３计算单位。

法国政府在其核准书中，根据本公约第１８条第１款，保留排除第２条第１款第(d)项和第(e)项适用的权利。

本公约缔约国，

认识到通过协议确定关于海事索赔责任限制的若干统一规则的需要，已决定为此目的而缔结一项公约，并已就此达成协议如下：

第一章 责任限制的权利

第一条 有权享受责任限制的人

１．下述定义中所指的船舶所有人和救助人，可以根据本公约规定，对第二条所列索赔，限制其责任。

２．“船舶所有人”一词，是指海运船舶的所有人、承租人、经理人和营运人。

３．“救助人”是指从事与救助作业直接相关的服务工作的任何人。救助作业还包括第二条第１款第（４）、（５）、（６）项所述作业。

４．如果第二条所规定的任何索赔，是向船舶所有人或救助人对其行为、疏忽或过失负有责任的任何人提出的，这种人便有权享受本公约所规定的责任限制。

５．就本公约而言，船舶所有人的责任，应包括对船舶本身提起诉讼案件中的责任。

６．对于按本公约规定须受责任限制的索赔承担责任的保险人，有权与被保险人本人在同一限度内享受本公约的利益。

７．援用责任限制的行为，并不构成对责任的承认。

第二条 须受责任限制的索赔

１．除按第三条和第四条的规定外，下列索赔，无论其责任的根据如何，均须受责任限制的制约：

（１）有关在船上发生或与船舶营运或救助作业直接相关的人身伤亡或财产的灭失或损害（包括对港口工程、港池、航道和助航设施的损害），以及由此引起的相应损失的索赔；

（２）有关海上货物、旅客或其行李运输的延迟所引起的损失的索赔；

（３）有关与船舶营运或救助作业直接相关的侵犯除契约权利之外的权利引起的其它损失的索赔；

（４）有关沉没、遇难、搁浅或被弃船舶（包括船上的任何物件）的起浮、清除、毁坏或使之变为无害的索赔；

（５）有关船上货物的清除、毁坏或使之变为无害的索赔；

（６）有关责任人以外的任何人，为避免或减少责任人按本公约规定可限制其责任的损失所采取的措施，以及由此措施而引起的进一步损失的索赔。

２．第１款所列各项索赔，即使以追偿请求或者根据契约要求赔偿的方式或其它方式提出，也应受责任限制的制约。但第１款第（４）、（５）和（６）项所列索赔，在其涉及与责任人所订契约中所载报酬问题时，应不受责任限制的制约。

第三条 不受责任限制的索赔

本公约的规则不适用于：

（１）有关救助或共同海损分摊的索赔；

（２）有关１９６９年１１月２９日国际油污损害民事责任公约的规定，或实施中的该公约修正案或议定书中所载油污损害的索赔；

（３）根据管辖或禁止核能损害责任限制的任何国际公约或国内法提出的索赔；

（４）对核子船舶所有人提出的核子损害索赔；

（５）所任职务与船舶或救助作业有关的船舶所有人或救助人的雇用人员，包括他们的继承人、亲属或有权提出索赔要求的其它人员所提出的索赔，如果按照船舶所有人或救助同雇用人之间的服务合同所适用的法律，船舶所有人或救助人无权在此类索赔方面限制其责任，或者根据此项法律，仅允许将其责任限制在较本公约第六条规定的限额为高时。

第四条 不得享受责任限制的行为

如经证明，损失是由于责任人本身为蓄意造成这一损失，或者明知可能造成这一损失而轻率地采取的行为或不为所引起，该责任人便无权限制其责任。

第五条 反索赔

如果按照本公约规定有权享受责任限制的人，就同一事件向索赔人提出索赔，则双方提出的索赔应相互抵销，而本公约的规定则仅适用于其间的差额（如有差额）。

第二章 责任限制

第六条 一般限制

１．除第七条所列者外，在任一具体情况下提出的索赔的责任限制，应按下列方法计算：

（１）有关人身伤亡的索赔：

①凡吨位不超过５００吨的船舶，为３３３，０００计算单位；

②凡吨位超过５００吨的船舶，除第①项外，还应增加下列数额：

自５０１吨至３，０００吨，每吨为５００计算单位；

自３，００１吨至３０，０００吨，每吨为３３３计算单位；

自３０，００１吨至７０，０００吨，每吨为２５０计算单位；

超过７０，０００吨，每吨为１６７计算单位。

（２）有关其它方面的索赔：

①凡吨位不超过５００吨的船舶，为１６７，０００计算单位；

②凡吨位超过５００吨的船舶，除第①项外，还应增加下列数额：

自５０１吨至３０，０００吨，每吨为１６７计算单位；

自３０，０００吨至７０，０００吨，每吨为１２５计算单位；

超过７０，０００吨，每吨为８３计算单位。

２．但是，如果依照第１款第（１）项计算的那部分款额不敷支付全部索赔，则依照第１款第（２）项计算的数额，应用以支付第１款第（１）项下所未支付的差额，而此项未付差额应同第１款第（２）项的索赔按比例取偿。

３．但是，在无损于按第２款提出的关于人身伤亡的索赔权利的情况下，缔约国可在国内法中规定，对港口工程、港池、航道和助航设施的损害所提出的索赔，应依该法规定而享有较第１款第２项所载其它索赔优先受偿的权利。

４．凡不从任何船舶进行施救工作的救助人，或者只是在对之进行施救工作的船上作业的救助人，其责任限制应按吨位为１，５００吨的船舶计算。

５．就本公约而言，船舶吨位应为根据《１９６９年国际船舶吨位丈量公约》附件Ⅰ中所载吨位丈量规则计算的总吨位。

第七条 旅客索赔的责任限制

１．对于在任一具体情况下提出的有关船上旅客人身伤亡的索赔，船舶所有人的责任限制，为４６，６６６计算单位乘以船舶证书上规定的该船载客定额所得的数额，但不得超过２５，０００，０００计算单位。

２．就本条而言，“船上旅客人身伤亡的索赔”，是指该船所载下列任何人所提出或代其提出的任何此种索赔，即：

（１）根据旅客运输契约而载运者；或

（２）经承运人同意，随同照料货物运输契约中所载车辆或活动物者。

第八条 计算单位

１．上述第六条、第七条所述计算单位，是指国际货币基金组织所规定的特别提款权。第六条、第七条所述数额，应按照责任限制基金设立之日、付款之日或根据该国法律与此项付款等值的担保提出之日该国货币的价值，折算成谋求责任限制所有国家的本国货币。凡属国际货币基金组织成员国的本公约缔约国，其以特别提款权表示的本国货币的价值，应按国际货币基金组织在上述日期在进行营业和交易中适用的现行定价办法计算。非属国际货币基金组织成员国的本公约缔约国，其以特别提款权表示的本国货币的价值，应按该缔约国确定的办法计算。

２．但是，非属国际货币基金组织成员国，且其法律不允许实施本条第１款规定办法的国家，可在签字并无保留地批准、接受或认可之时，或在批准、接受、认可或加入之时，或在此后任何时期宣布，将在其领土内适用的本公约所规定的责任限制，确定如下：

（１）有关第六条第１款第（１）项：①凡吨位不超过５００吨的船舶，为５，０００，０００货币单位；②凡吨位不超过５００吨的船舶，除第①项外，还应增加下列数额：

自５０１吨至３，０００吨，每吨为７，５００货币单位；

自３，００１吨至３０，０００吨，每吨为５，０００货币单位；

自３０，００１吨至７０，０００吨，每吨为３，７５０货币单位；

超过７０，０００吨，每吨为２，５００货币单位。

（２）有关第六条第１款第（２）项：

①凡吨位不超过５００吨的船舶，为２，５００，０００货币单位；

②凡吨位超过５００吨的船舶，除第①项外，还应增加下列数额；

自５０１吨至３０，０００吨，每吨为２，５００货币单位；

自３０，００１吨至７０，０００吨，每吨为１，８５０货币单位；

超过７０，０００吨，每吨为１，２５０货币单位。

（３）有关第七条第１款，为７００，０００货币单位乘以船舶证书上规定的载客定额所得的数额，但不得超过３７５，０００，０００货币单位。

第六条第２款和第３款的规定，相应地适用于本款第（１）和第（２）项。

３．上述第２款所指货币单位，相当于纯度为千分之九百的黄金６５．５毫克。将第２款规定的货币单位数额折算成国家货币时，应按有关国家的法律办理。

４．第１款末句所述计算办法和第３款所述折算办法，应能使第六条和第七条所述数额在以缔约国本国货币计算时，尽可能表示出上述条款中按计算单位计算时的同一真实价值。缔约国在签字并无保留地批准、接受或认可之时，或在交存第十六条所指文件之时，应视情况向本公约保管人提交第１款所述计算办法，或第３款所述折算结果，并在其变更时作出相应的通知。

第九条 索赔总额

１．根据第六条规定的责任限额，应适用于下列各项索赔总额：

（１）对第一条第２款所指任何人以及他或他们对其行为、疏忽或过失负责的任何人提出的索赔；

（２）对从另一艘船舶进行施救工作的该船船舶所有人，和从这种船舶进行施救工作的救助人，以及他或他们对其行为、疏忽或过失负责的任何人提出的索赔；

（３）对不是从另一艘船舶进行施救工作的救助人，或者只是在对之进行施救工作的船上作业的救助人，以及他或他们对其行为、疏忽或过失负责的任何人提出的索赔。

２．按第七条规定的责任限制，适用于可能在任何特定情况下，就第一条第２款所述有关第七条所指船舶的负有赔偿责任的任何人，以及他或他们对其行为、疏忽或过失负责的任何人提出的各项索赔的总额。

第十条 没有设立责任限制基金的责任限制

１．尽管第十一条所述责任限制基金尚未设立，也可以援引责任限制。但是，缔约国可在其国内法中规定，当在其法院审理须受责任限制的索赔时，只有在责任人已按本公约规定设立责任限制基金，或在援用责任限制权利时设立该项基金，才能援用责任限制的权利。

２．如在没有设立责任限制基金的情况下援用责任限制，应相应地适用第十二条的规定。

３．根据本条规定发生的诉讼程序问题，应按受理诉讼的缔约国本国法律决定。

第三章 责任限制基金

第十一条 基金的设立

１．被认定负有责任的任何人，可在提出责任限制索赔诉讼的任何缔约国法院或其他主管当局，设立基金。此项基金应为按照第六条和第七条规定适用于对该责任者提出索赔的金额，加上从事故发生引起责任之日起至基金设立之日为止的利息。此项基金仅可用于支付援用责任限制的索赔。

２．设立基金可以储存专款，或提出为设立基金的缔约国法律所允许并经法院或其他主管当局认可的担保。

３．由第九条第１款第（１）、（２）或第（３）项所述当事人之一或其保险人所设立的基金，应被认为是由第１款第（１）、（２）或第（３）项或第２款所述所有当事人所设立。

第十二条 基金的分配

１．根据第六条第１款、第２款和第３款以及第七条的规定，基金应在索赔人之间，依其对该基金确立的索赔额，按比例分配。

２．如在基金分配之前，责任人或其保险人已就对该基金的索赔付款结案，则他在已付金额范围内，应依代位权获得此受偿人根据本公约所可享有的权利。

３．本条第２款所规定的代位权，也可由该款所述者之外的人在其已付赠偿金额内行使，但仅以所适用的国内法允许行使此种代位权为限。

４．如果责任人或任何其他人认定，假若赔偿金在基金分配之前即已付出，他便可能在基金分配之后的某日被强制支付赔偿金额的全部或一部，而根据本第第２款及第３款，该人对此项赔偿本可享有代位权，则基金设在国的法院或主管当局可以下令暂时拨出一个足够数额，以便该人在上述日期对此基金行使其索赔权。

第十三条 其他法律行为的禁止

１．如果责任限制基金已按第十一条的规定设立，则已向基金提出索赔的任何人，不得针对该项索赔而对由其设立或以其名义设立基金的人的任何其他财产，行使任何权利。

２．责任限制基金已按第十一条规定设立之后，则以其名义设立基金之人所属任何船舶或其财产，凡是因向基金提出索赔而已依缔约国管辖权予以扣押或扣留的属于基金设立人名下的任何船舶或其他财产，或是由他提交的抵押品，均可由该国法院或其主管当局下令开释或退还。而如果此项基金已在下列地点设立，则应一律发出此种开释命令：

（１）已在事故发生港设立，而如事故发生在港外，则已在下一停靠港设立；

（２）对于人身伤亡的索赔，已在登陆港设立；

（３）对于货损，已在卸货港设立；

（４）已在执行扣押的国家设立。

３．第１款和第２款的规则，仅在索赔人向管理责任限制基金的法院就该基金提出索赔，而且就该项索赔而言，确有基金可用，并可自由划拨时，才可适用。

第十四条 法律管辖

关于责任限制基金的设立与分配规则，以及与其有关的一切程序规则，除按本章规定办理外，应受基金设在国法律管辖。

第四章 适用范围

第十五条

１．凡是第一条所指的任何人，当其谋求在缔约国法院获得责任限制，或谋求开释在此类国家管辖下的船舶或其他财产，或退还其所提交的任何抵押品时，均适用本公约，然而，当本公约的规则在缔约国法院被援用时，如果第一条所指的任何人，在缔约国并无常住地点，或在缔约国并无主要营业处所，或为其谋求责任限制或开释的任何船舶在当时并非悬挂缔约国国旗时，各缔约国可以全部或部分排除其对本公约的适用。

２．缔约国可以通过国内法的具体规定，使责任限制制度适用于下列船舶：

（１）依照该国法律规定，意欲在内陆水域航行的船舶；

（２）小于３００吨的船舶；

缔约国在行使本款规定的任选权时，应将国内法规定的责任限制或者并无此种规定的事实，通知本公约保管人。

３．缔约国可以通过国内法的具体规定，使责任限制制度适用于毫不涉及其它缔约国国民利益的索赔．

４．缔约国法院在下列情况下，不应使本公约适用于为钻探而建造或改建并从事钻探作业的船舶：

（１）当该国已根据国内法规定制订一项高于本公约第六条规定的责任限制时；或者

（２）当该国已成为调节有关这种船舶责任制度的一项国际公约的缔约国时。

在适用本款第１项的情况下，该缔约国应相应地通知本公约的保管人。

５．本公约不适用于：

（１）气垫船；

（２）用于勘探或开采海底自然资源或其底土的浮动平台。

第五章 最后条款

第十六条 签字。批准和加入

１．本公约自１９７７年２月１日起至１９７７年１２月３１日止，在政府海事协商组织（以下简称“海协”）总部向所有国家开放，以供签字，并在其后继续开放，以供加入。

２．各国可以通过下列方式成为本公约缔约国：

（１）签字并无保留地批准、接受或认可；或者

（２）签字并须经批准、接受或认可，随后予以批准、接受或认可；或者

（３）加入。

３．批准、接受、认可或加入本公约，应向“海协”秘书长（以下简称“秘书长”）交存一份载有上述意图的正式文件。

第十七条 生效

１．本公约自十二个国家已在本公约签字并无保留地批准，接受或认可，或者已经交存所需批准、接受、认可或加入文件之日一年后次月第一日起生效。

２．对于在本公约生效条件已得到满足之后但却在生效之日以前交存批准、接受、认可或加入文，或者签字并无保留地批准、接受或认可的国家，其批准、接受、认可或加入或者其签字并无保留地批准、接受、或认可等项，应自本公约生效之日或签字之日，或交存文件之日第九十天后次月第一日起生效，二者之中以较迟者为准。

３．对于任何一个在本公约生效之后成为本公约缔约国的国家，本公约应自该国交存其文件之日九十天后次月第一日起生效。

４．对于批准、接受、认可或加入本公约的国家之间的关系，本公约应取代并废止１９５７年１０月１０日在布鲁塞尔签订的《海上船舶所有人责任限制公约》和１９２４年８月２５日在布鲁塞尔签订的《关于统一海上船舶所有人责任限制某些规则的国际公约》。

第十八条 保留

１．任何国家均可在签字、批准、接受、认可或加入本公约时，保留不适用第二条第１款第（４）项和第（５）项的权利。但对本公约的实质性条款，不得作任何其他保留。

２．在签字时所作的保留，须在批准、接受或认可时予以确认。

３．对本公约作出保留的任何国家，均可在任何时日通过寄交秘书长的通知而予以撤销。这种撤销，应自通知收到之日起生效。如果该通知声称，对于保留的撤销应自通知中具体规定的日期起生效，而这一日期又较秘书长收到通知之日为迟，则撤销应自这一较迟日期起生效。

第十九条 退出

１．缔约国可在本公约对该国生效之日一年后的任何时日，退出本公约。

２．退出本公约，应向秘书长交存一份文件。

３．退出本公约，应自交存退出通知之日一年后次月第一日起，或自该通知中所载较此为长的期限起生效。

第二十条 修订和修正

１．修订或修正本公约的会议，可由“海协”召开。

２．经不少于三分之一缔约国要求，“海协”应召开本公约缔约国会议，修订或修正本公约。

３．凡在本公约的修正案生效之日以后交存的任何批准、接受、认可或加入文件，除非已在文件中表示相反意愿，便应视为适用于修正后的本公约。

第二十一条 对限额和计算单位或货币单位的修改

１．尽管有第二十条的规定，“海协”仍可依照本条第２款和第３款的规定，召开专门会议，改变本公约第六条和第七条以及第八条第２款规定的限额，或以其他单位代替第八条第１款和第２款规定的两个单位，或其中之一。只有在其实际价值发生显著变化时，才能对限额作出改变。

２．经不少于四分之一的缔约国要求，“海协”应召开上述会议。

３．改变限额或以其他计算单位代替原有单位的决定，应由上述会议到会并投票的缔约国三分之二多数作出。

４．凡在修正案生效后交存其批准、接受、认可或加入本公的文件的国家，应适用修正后的本公约。

第二十二条 保管

１．本公约应由秘书长保管。

２．秘书长应当：

（１）向被邀请出席海事索赔责任限制会议的所有国家和加入本公约的任何其他国家，分送经过核证无误的本公约副本；

（２）通知已签署或加入本公约的所有国家；

①每一新的签署和每一文件交存事项以及对其所作任何保留及其日期；

②本公约或本公约的任何修正案的生效日期；

③任何退出本公约事项及其生效日期；

④依照第二十条或第二十一条规定通过的任何修正案；

⑤由本公约任何条文所要求的任何通知事项。

３．本公约一经生效，秘书长便应依照联合国宪章第１０２条，将一份核证无误的本公约副本，送交联合国秘书长登记并公布。

第二十三条 语言

本公约以英文、法文、俄文和西班牙文写成，正本共一份，每种文本具有同等效力。

１９７６年１１月１９日订于伦敦。

为此而被正式授权的下列具名者，特签署本公约，以昭信守。

CONVENTION ON LIMITATION OF LIABILITY FOR MARITIME CLAIMS, 1976

The States parties to this Convention,

Having recognized the desirability of determining by agreement certain

uniform rules relating to the limitation of liability for maritime claims,

Have decided to conclude a Convention for this purpose and have

thereto agreed as follows:

CHAPTER I. THE RIGHT OF LIMITATION

Article 1

Persons entitled to limit liability

1. Shipowners, and salvors, as hereinafter defined, may limit their

liability in accordance with the rules of this Convention for claims set

out in Article 2.

2. The term "shipowner" shall mean the owner, charterer, manager and

operator of a seagoing ship.

3. Salvor shall mean any person rendering services in direct connexion

with salvage operations. Salvage operations shall also include operations

referred to in Article 2, paragraph 1 (d), (e) and (f).

4. If any claims set out in Article 2 are made against any person for

whose act, neglect or default the shipowner or salvor is responsible, such

person shall be entitled to avail himself of the limitation of liability

provided for in this Convention.

5. In this Convention the liability of a shipowner shall include

liability in an action brought against the vessel herself.

6. An insurer of liability for claims subject to limitation in

accordance with the rules of this Convention shall be entitled to the

benefits of this Convention to the same extent as the assured himself.

7. The act of invoking limitation of liability shall not constitute an

admission of liability.

Article 2

Claims subject to limitation

1. Subject to Article 3 and 4 the following claims, whatever the basis

of liability may be, shall be subject to limitation of liability:

(a) claims in respect of loss of life or personal injury or loss

of or damage to property (including damage to harbour works, basins and

waterways and aids to navigation), occurring on board or in direct

connexion with the operation of the ship or with salvage operations, and

consequential loss resulting therefrom;

(b) claims in respect of loss resulting from delay in the carriage

by sea of cargo, passengers or their luggage;

(c) claims in respect of other loss resulting from infringement of

rights other than contractual rights, occurring in direct connexion with

the operation of the ship or salvage operations;

(d) claims in respect of the raising, removal, destruction or the

rendering harmless of a ship which is sunk, wrecked, stranded or

abandoned, including anything that is or has been on board such ship;

(e) claims in respect of the removal, destruction or the rendering

harmless of the cargo of the ship;

(f) claims of a person other than the person liable in respect of

measures taken in order to avert or minimize loss for which the person

liable may limit his liability in accordance with this Convention, and

further loss caused by such measures.

2. Claims set out in paragraph 1 shall be subject to limitation of

liability even if brought by way of recourse or for indemnity under a

contract or otherwise. However, claims set out under paragraph 1(d), (e)

and (f) shall not be subject to limitation of liability to the extent that

they relate to remuneration under a contract with the person liable.

Article 3

Claims excepted from limitation

The rules of this Convention shall not apply to:

(a) claims for salvage or contribution in general average;

(b) claims for oil pollution damage within the meaning of the

International Convention on Civil Liability for Oil Pollution Damage,

dated November 29, 1969 or of any amendment or Protocol thereto which is

in force;

(c) claims subject to any international convention or national

legislation governing or prohibiting limitation of liability for nuclear

damage;

(d) claims against the shipowner of a nuclear ship for nuclear

damage;

(e) claims by servants of the shipowner or salvor whose duties are

connected with the ship or the salvage operations, including claims of

their heirs, dependants or other persons entitled to make such claims, if

under the law governing the contract of service between the shipowner or

salvor and such servants the shipowner or salvor is not entitled to limit

his liability in respect of such claims, or if he is by such law only

permitted to limit his liability to an amount greater than that provided

for in Article 6.

Article 4

Conduct barring limitation

A person liable shall not be entitled to limit his liability if it is

proved that the loss resulted from his personal act or omission, committed

with the intent to cause such loss, or recklessly and with knowledge that

such loss would probably result.

Article 5

Counterclaims

Where a person entitled to limitation of liability under the rules of

this Convention has a claim against the claimant arising out of the same

occurrence, their respective claims shall be set off against each other

and the provisions of this Convention shall only apply to the balance, if

any.

CHAPTER II. LIMITS OF LIABILITY

Article 6

The general limits

1. The limits of liability for claims other than those mentioned in

Article 7, arising on any distinct occasion, shall be calculated as

follows:

(a) in respect of claims for loss of life or personal injury,

(i) 333,000 Units of Account for a ship with a tonnage not

exceeding 500 tons,

(ii) for a ship with a tonnage in excess thereof, the

following amount in addition to that mentioned in (i):

for each ton from 501 to 3,000 tons, 500 Units of Account;

for each ton from 3,001 to 30,000 tons, 333 Units of

Account;

for each ton from 30,001 to 70,000 tons, 250 Units of

Account; and

for each ton in excess of 70,000 tons, 167 Units of

Account.

(b) in respect of any other claims.

(i) 167,000 Units of Account for a ship with a tonnage not

exceeding 500 tons,

(ii) for a ship with a tonnage in excess thereof the following

amount in addition to that mentioned in (i):

for each ton from 501 to 30,000 tons, 167 Units of

Account;

for each ton from 30,001 to 70,000 tons, 125 Units of

Account; and

for each ton in excess of 70,000 tons, 83 Units of

Account.

2. Where the amount calculated in accordance with paragraph 1(a) is

insufficient to pay the claims mentioned therein in full, the amount

calculated in accordance with paragraph 1(b) shall be available for

payment of the unpaid balance of claims under paragraph 1(a) and such

unpaid balance shall rank rateably with claims mentioned under paragraph

1(b).

3. However, without prejudice to the right of claims for loss of life

or personal injury according to paragraph 2, a State Party may provide in

its national law that claims in respect of damage to harbour works, basins

and waterways and aids to navigation shall have such priority over other

claims under paragraph 1(b) as is provided by that law.

4. The limits of liability for any salvor not operating from any ship

or for any salvor operating solely on the ship to, or in respect of which

he is rendering salvage services, shall be calculated according to a

tonnage of 1,500 tons.

5. For the purpose of this Convention the ship's tonnage shall be the

gross tonnage calculated in accordance with the tonnage measurement rules

contained in Annex I of the International Convention on Tonnage

Measurements of Ships, 1969.

Article 7

The limit for passenger claims

1. In respect of claims arising on any distinct occasion for loss of

life or personal injury to passengers of a ship, the limit of liability of

the shipowner thereof shall be an amount of 46,666 Units of Account

multiplied by the number of passengers which the ship is authorized to

carry according to the ship's certificate, but not exceeding 25 million

Units of Account.

2. For the purpose of this Article "claims for loss of life or

personal injury to passengers of a ship" shall mean any such claims

brought by or on behalf of any person carried in that ship:

(a) under a contract of passenger carriage, or

(b) who, with the consent of the carrier, is accompanying a

vehicle or live animals which are covered by a contract for the carriage

of goods.

Article 8

Unit of Account

1. The Unit of Account referred to in Articles 6 and 7 is the Special

Drawing Right as defined by the International Monetary Fund. The amounts

mentioned in Articles 6 and 7 shall be converted into the national

currency of the State in which limitation is sought, according to the

value of that currency at the date the limitation fund shall have been

constituted, payment is made, or security is given which under the law of

that State is equivalent to such payment. The value of a national currency

in terms of the Special Drawing Right, of a State Party which is a member

of the International monetary Fund, shall be calculated in accordance with

the method of valuation applied by the International Monetary Fund in

effect at the date in question for its operations and transactions. The

value of a national currency in terms of the Special Drawing Right, of a

State Party which is not a member of the International Monetary Fund,

shall be calculated in a manner determined by that State Party.

2. Nevertheless, those States which are not members of the

International Monetary Fund and whose law does not permit the application

of the provisions of paragraph 1 may, at the time of signature without

reservation as to ratification, acceptance or approval or at the time of

ratification, acceptance, approval or accession or at any time thereafter,

declare that the limits of liability provided for in this Convention to be

applied in their territories shall be fixed as follow:

(a) in respect of Article 6, paragraph 1 (a), at an amount of:

(i) 5 million monetary units for a ship with a tonnage not

exceeding 500 tons;

(ii) for a ship with a tonnage in excess thereof, the

following amount in addition to that mentioned in (i):

for each ton from 501 to 3,000 tons, 7,500 monetary units;

for each ton from 3,001 to 30,000 tons, 5,000 monetary units;

for each ton from 30,001 to 70,000 tons, 3,750 monetary units; and

for each ton in excess of 70,000 tons, 2,500 monetary units; and

(b) in respect of Article 6, paragraph 1 (b), at an amount of:

(i) 2.5 million monetary units for a ship with a tonnage not

exceeding 500 tons;

(ii) for a ship with a tonnage in excess thereof, the

following amount in addition to that mentioned in (i):

for each ton from 501 to 30,000 tons, 2,500 monetary units;

for each ton from 30,001 to 70,000 tons, 1,850 monetary units; and

for each ton in excess of 70,000 tons, 1,250 monetary units; and

(c) in respect of Article 7, paragraph 1, at an amount of 700,000

monetary units multiplied by the number of passengers which the ship is

authorized to carry according to its certificate, but not exceeding 375

million monetary units.

Paragraphs 2 and 3 of Article 6 apply correspondingly to subparagraphs

(a) and (b) of this paragraph.

3. The monetary unit referred to in paragraph 2 corresponds to

sixty-five and a half milligrams of gold of millesimal fineness nine

hundred. The conversion of the amounts referred to in paragraph 2 into the

national currency shall be made according to the law of the State

concerned.

4. The calculation mentioned in the last sentence of paragraph 1 and

the conversion mentioned in paragraph 3 shall be made in such a manner as

to express in the national currency of the State Party as far as possible

the same real value for the amounts in Articles 6 and 7 as is expressed

there in units of account. States Parties shall communicate to the

depositary the manner of calculation pursuant to paragraph 1, or the

result of the conversion in paragraph 3, as the case may be, at the time

of the signature without reservation as to ratification, acceptance or

approval, or when depositing an instrument referred to in Article 16 and

whenever there is a change in either.

Article 9

Aggregation of claims

1. The limits of liability determined in accordance with Article 6

shall apply to the aggregate of all claims which arise on any distinct

occasion:

(a) against the person or persons mentioned in paragraph 2 of

Article 1 and any person for whose act, neglect or default he or they are

responsible; or

(b) against the shipowner of a ship rendering salvage services

from that ship and the salvor or salvors operating from such ship and any

person for whose act, neglect or default he or they are responsible; or

(c) against the salvor or salvors who are not operating from a

ship or who are operating solely on the ship to, or in respect of which,

the salvage services are rendered and any person for whose act, neglect or

default he or they are responsible.

2. The limits of liability determined in accordance with Article 7

shall apply to the aggregate of all claims subject thereto which may arise

on any distinct occasion against the person or persons mentioned in

paragraph 2 of Article 1 in respect of the ship referred to in Article 7

and any person for whose act, neglect or default he or they are

responsible.

Article 10

Limitation of liability without constitution of a limitation fund

1. Limitation of liability may be invoked notwithstanding that a

limitation fund as mentioned in Article 11 has not been constituted.

However, a State Party may provide in its national law that, where an

action is brought in its Courts to enforce a claim subject to limitation,

a person liable may only invoke the right to limit liability if a

limitation fund has been constituted in accordance with the provisions of

this Convention or is constituted when the right to limit liability is

invoked.

2. If limitation of liability is invoked without the constitution of a

limitation fund, the provisions of Article 12 shall apply correspondingly.

3. Questions of procedure arising under the rules of this Article

shall be decided in accordance with the national law of the State Party in

which action is brought.

CHAPTER III. THE LIMITATION FUND

Article 11

Constitution of the fund

1. Any person alleged to be liable may constitute a fund with the

Court or other competent authority in any State Party in which legal

proceedings are instituted in respect of claims subject to limitation. The

fund shall be constituted in the sum of such of the amounts set out in

Articles 6 and 7 as are applicable to claims for which that person may be

liable, together with interest thereon from the date of the occurrence

giving rise to the liability until the date of the constitution of the

fund. Any fund thus constituted shall be available only for the payment of

claims in respect of which limitation of liability can be invoked.

2. A fund may be constituted, either by depositing the sum, or by

producing a guarantee acceptable under the legislation of the State Party

where the fund is constituted and considered to be adequate by the Court

or other competent authority.

3. A fund constituted by one of the persons mentioned in paragraph

1(a), (b), or (c) or paragraph 2 of Article 9 or his insurer shall be

deemed constituted by all persons mentioned in paragraph 1(a), (b) or (c)

or paragraph 2, respectively.

Article 12

Distribution of the fund

1. Subject to the provisions of paragraphs 1, 2 and 3 of Article 6 and

of Article 7, the fund shall be distributed among the claimants in

proportion to their established claims against the fund.

2. If, before the fund is distributed, the person liable, or his

insurer, has settled a claim against the fund such person shall, up to the

amount he has paid, acquire by subrogation the rights which the person so

compensated would have enjoyed under this Convention.

3. The right of subrogation provided for in paragraph 2 may also be

exercised by persons other than those therein mentioned in respect of any

amount of compensation which they may have paid, but only to the extent

that such subrogation is permitted under the applicable national law.

4. Where the person liable or any other person establishes that he may

be compelled to pay, at a later date, in whole or in part any such amount

of compensation with regard to which such person would have enjoyed a

right of subrogation pursuant to paragraphs 2 and 3 had the compensation

been paid before the fund was distributed, the Court or other competent

authority of the State where the fund has been constituted may order that

a sufficient sum shall be provisionally set aside to enable such person at

such later date to enforce his claim against the fund.

Article 13

Bar to other actions

1. Where a limitation fund has been constituted in accordance with

Article 11, any person having made a claim against the fund shall be

barred from exercising any right in respect of such claim against any

other assets of a person by or on behalf of whom the fund has been

constituted.

2. After a limitation fund has been constituted in accordance with

Article 11, any ship or other property, belonging to a person on behalf of

whom the fund has been constituted, which has been arrested or attached

within the jurisdiction of a State Party for a claim which may be raised

against the fund, or any security given, may be released by order of the

Court or other competent authority of such State. However, such release

shall always be ordered if the limitation fund has been constituted:

(a) at the port where the occurrence took place, or, if it took

place out of port, at the first port of call thereafter; or

(b) at the port of disembarkation in respect of claims for loss of

life or personal injury; or

(c) at the port of discharge in respect of damage to cargo; or

(d) in the State where the arrest is made.

3. The rules of paragraphs 1 and 2 shall apply only if the claimant

may bring a claim against the limitation fund before the Court

administering that fund and the fund is actually available and freely

transferable in respect of that claim.

Article 14

Governing law

Subject to the provisions of this Chapter the rules relating to the

constitution and distribution of a limitation fund, and all rules of

procedure in connexion therewith, shall be governed by the law of the

State Party in which the fund is constituted.

CHAPTER IV. SCOPE OF APPLICATION

Article 15

1. This Convention shall apply whenever any person referred to in

Article 1 seeks to limit his liability before the Court of a State Party

or seeks to procure the release of a ship or other property or the

discharge of any security given within the jurisdiction of any such State.

Nevertheless, each State Party may exclude wholly or partially from the

application of this Convention any person referred to in Article 1 who at

the time when the rules of this Convention are invoked before the Courts

of that State does not have his habitual residence in a State Party or

does not have his principal place of business in a State Party or any ship

in relation to which the right of limitation is invoked or whose release

is sought and which does not at the time specified above fly the flag of a

State Party.

2. A State Party may regulate by specific provisions of national law

the system of limitation of liability to be applied to vessels which are:

(a) according to the law of that State, ships intended for

navigation on inland waterways;

(b) ships of less than 300 tons.

A State Party which makes use of the option provided for in this

paragraph shall inform the depositary of the limits of liability adopted

in its national legislation or of the fact that there are none.

3. A State Party may regulate by specific provisions of national law

the system of limitation of liability to be applied to claims arising in

cases in which interests of persons who are nationals of other States

Parties are in no way involved.

4. The Courts of a State Party shall not apply this Convention to

ships constructed for, or adapted to, and engaged in, drilling:

(a) when that State has established under its national legislation

a higher limit of liability than that otherwise provided for in Article 6;

or

(b) when that State has become party to an international

convention regulating the system of liability in respect of such ships.

In a case to which subparagraph (a) applies that State Party shall

inform the depositary accordingly.

5. This Convention shall not apply to:

(a) air-cushion vehicles;

(b) floating platforms constructed for the purpose of exploring or

exploiting the natural resources of the sea-bed or the subsoil thereof.

CHAPTER V. FINAL CLAUSES

Article 16

Signature, ratification and accession

1. This Convention shall be open for signature by all States at the

Headquarters of the Inter-Governmental Maritime Consultative Organization

(hereinafter referred to as "the Organization") from February 1, 1977

until December 31, 1977 and shall thereafter remain open for accession.

2. All State may become parties to this Convention by:

(a) signature without reservation as to ratification, acceptance

or approval; or

(b) signature subject to ratification, acceptance or approval

followed by ratification, acceptance or approval; or

(c) accession.

3. Ratification, acceptance, approval or accession shall be effected

by the deposit of a formal instrument to that effect with the

Secretary-General of the Organization (hereinafter referred to as "the

Secretary-General").

Article 17

Entry into force

1. This Convention shall enter into force on the first day of the

month following one year after the date on which twelve States have either

signed it without reservation as to ratification, acceptance or approval

or have deposited the requisite instruments of ratification, acceptance,

approval or accession.

2. For a State which deposits an instrument of ratification,

acceptance, approval or accession, or signs without reservation as to

ratification, acceptance or approval, in respect of this Convention after

the requirements for entry into force have been met but prior to the date

of entry into force, the ratification, acceptance, approval or accession

or the signature without reservation as to ratification, acceptance or

approval, shall take effect on the date of entry into force of the

Convention or on the first day of the month following the ninetieth day

after the date of the signature or the deposit of the instrument,

whichever is the later date.

3. For any State which subsequently becomes a Party to this

Convention, the Convention shall enter into force on the first day of the

month following the expiration of ninety days after the date when such

State deposited its instrument.

4. In respect of the relations between States which ratify, accept, or

approve this Convention or accede to it, this Convention shall replace and

abrogate the International Convention relating to the Limitation of the

Liability of Owners of Sea-going Ships, done at Brussels on October 10,

1957, and the International Convention for the Unification of certain

Rules relating to the Limitation of Liability of the Owners of Sea-going

Vessels, signed at Brussels on August 25, 1924.

Article 18

Reservations

1. Any State may, at the time of signature, ratification, acceptance,

approval or accession, reserve the right to exclude the application of

Article 2 paragraph 1 (d) and (e). No other reservations shall be

admissible to the substantive provisions of this Convention.

2. Reservations made at the time of signature are subject to

confirmation upon ratification, acceptance or approval.

3. Any State which has made a reservation to this Convention may

withdraw it at any time by means of a notification addressed to the

Secretary-General. Such withdrawal shall take effect on the date the

notification is received. If the notification states that the withdrawal

of the reservation is to take effect on a date specified therein, and such

date is later than the date the notification is received by the

Secretary-General, the withdrawal shall take effect on such later date.

Article 19

Denunciation

1. This Convention may be denounced by a State Party at any time after

one year from the date on which the Convention entered into force for that

Party.

2. Denunciation shall be effected by the deposit of an instrument with

the Secretary-General.

3. Denunciation shall take effect on the first day of the month

following the expiration of one year after the date of deposit of the

instrument, or after such longer period as may be specified in the

instrument.

Article 20

Revision and amendment

1. A Conference for the purpose of revising or amending this

Convention may be Convened by the Organisation.

2. The Organization shall convene a Conference of the States Parties

to this Convention for revising or amending it at the request of not less

than one-third of the Parties.

3. After the date of the entry into force of an amendment to this

Convention, any instrument of ratification, acceptance, approval or

accession deposited shall be deemed to apply to the Convention as amended,

unless a contrary intention is expressed in the instrument.

Article 21

Revision of the limitation amounts and of Unit of Account or monetary

unit

1. Notwithstanding the provision of Article 20, a Conference only for

the purposes of altering the amounts specified in Article 6 and 7 and in

Article 8, paragraph 2, or of substituting either or both of the Units

defined in Article 8, paragraphs 1 and 2, by other units shall be convened

by the Organization in accordance with paragraphs 2 and 3 of this Article.

An alteration of the amounts shall be made only because of a significant

change in their real value.

2. The Organization shall convene such a Conference at the request of

not less than one-fourth of the States Parties.

3. A decision to alter the amounts or to substitute the Units by other

units of account shall be taken by a two-thirds majority of the States

Parties present and voting in such Conference.

4. Any State depositing its instrument of ratification, acceptance,

approval or accession to the Convention, after entry into force of an

amendment, shall apply the Convention as amended.

Article 22

Depositary

1. This Convention shall be deposited with the Secretary-General.

2. The Secretary-General shall:

(a) transmit certified true copies of this Convention to all

States which were invited to attend the Conference on Limitation of

Liability for Maritime Claims and to any other States which accede to this

Convention;

(b) inform all States which have signed or acceded to this

Convention of:

(i) each new signature and each deposit of an instrument and

any reservation thereto together with the date thereof;

(ii) the date of entry into force of this Convention or any

amendment thereto;

(iii) any denunciation of this Convention and the date on

which it takes effect;

(iv) any amendment adopted in conformity with Article 20 or

21;

(v) any communication called for by any Article of this

Convention.

3. Upon entry into force of this Convention, a certified true copy

thereof shall be transmitted by the Secretary-General to the Secretariat

of the United Nations for registration and publication in accordance with

Article 102 of the Charter of the United Nations.

Article 23

Languages

This Convention is established in a single original in the English,

French, Russian and Spanish languages, each text being equally authentic.

DONE AT LONDON this nineteenth day of November one thousand nine

hundred and seventy-six.

IN WITNESS WHEREOF the undersigned being duly authorized for that

purpose have signed this Convention.